



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

Petitioner/Guardian: Cynthia Peterson (pro per)

**Petition of Termination of Guardianship and Final Account and Report of
Cynthia Diane Peterson, Guardian of the Estate, Petition for Approval and
Order Settling Final Account**

		<p>CYNTHIA DIANE PETERSON, Guardian, is petitioner.</p> <p>Account period: 5/22/13 – 9/22/15</p> <p>Please see petition for details.</p> <p>Guardian - waives</p> <p>Petitioner prays for an Order:</p> <ol style="list-style-type: none"> 1. Approving the final account and report and confirming the acts of Petitioner as guardian; 2. Terminating the guardianship of the estate and allowing distribution from the blocked account to the minor. 	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>1. Order does not comply with Local Rule 7.5.1. Order must specifically list the property to be distributed to the minor and must specifically list the amount of cash in the balance.</p>
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		<p>Reviewed by: KT</p> <p>Reviewed on: 12/11/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1 - Murrin</p>	

Attorney: David N. Knudson, (for Petitioner/Administrator Laura Dozier)

**Second Amended First and Final Account and Report of Administrator,
and Petition to set Aside Exempt Personal Property to Surviving Spouse, for
Payment of Statutory and Extraordinary Fees and for Final Distribution**

DOD: 9/18/2007		LAURA DOZIER , surviving spouse/Administrator, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 2/4/2008 – 6/30/2015	Continued from 12/3/15. Minute order states the Court indicates that it is inclined to deny the request for reimbursement, but is willing to consider any additional information Counsel wants to provide. – Please see Declaration filed on 12/10/15.
Cont. from 120315			
<input type="checkbox"/>	Aff.Sub.Wit.	Accounting - \$652,005.95	<p>1. Petition states the real property on South Cornelia was a single family residence, having been acquired by the decedent prior to his marriage (in April of 2006) to petitioner. Following the decedent's death, Petitioner continued to reside in the home with her sons, and over the next fifteen months paid the mortgage, taxes and insurance on the property. Petitioner was unable to continue to make the payments and as a result the home was foreclosed upon. Petitioner is requesting reimbursement of \$25,050.00 for paying the mortgage from her personal funds. The petitioner and her sons received a benefit from living in the estate property. It appears that the payments towards the mortgage could be considered rents for living in the estate's real property and therefore may not be reimbursable.</p>
<input checked="" type="checkbox"/>	Verified	Beginning POH - \$650,750.00	
<input checked="" type="checkbox"/>	Inventory	Ending POH - \$101,040.89 (\$96,040.89 is cash)	
<input checked="" type="checkbox"/>	PTC	Administrator (statutory) - \$10,650.07	
<input checked="" type="checkbox"/>	Not.Cred.	Administrator X/O (for sale of real property) - \$1,000.00	
<input checked="" type="checkbox"/>	Notice of Hrg	Administrator Reimbursement of Expenses - \$53,238.09 (\$17,480.00 has already been paid leaving a balance of \$35,758.09)	
<input checked="" type="checkbox"/>	Aff.Mail	Attorney (statutory) - \$10,650.07	
<input type="checkbox"/>	Aff.Pub.	Attorney X/O (for sale of real property) - \$1,000.00	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters	Costs (filing fee, certified copies) - \$460.50	
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report	Fresno County Federal Credit Union (creditor's Claim) - \$36,522.16	
<input checked="" type="checkbox"/>	9202		
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Please see additional page**Reviewed by: KT****Reviewed on: 12/11/15****Updates:****Recommendation:****File 3 – Dozier**

Petitioner states certain assets that were decedent's separate property constitute exempt personal property eligible to be set aside to the surviving spouse pursuant to Probate Code §6510. Petitioner requests the court set aside the following personal property

- 2005 KTM Motorcycle (appraised value \$2,500.00)
- 2005 Honda ATV (appraised value \$2,500.00)

Petitioner alleges prior to his death, the decedent had given the motorcycle to Petitioner's son, Chris Johnson. Although the motorcycle had been given to Chris, title remained in the name of the decedent. Petitioner requests the court set aside the motorcycle to Petitioner (and Petitioner will confirm transfer to her son, Chris). In the alternative, Petitioner requests that the court confirm the gift of the motorcycle made prior to the decedent's death.

Petitioner states as surviving spouse she is entitled to have personal property set aside to her, in the Court's discretion, and requests the court exercise its discretion accordingly. Petitioner likewise requests that the Honda ATV be set aside to her as well. Petitioner believes that the value of the motorcycle and the ATV is presently less than the appraised value.

Petitioner states she has paid from her personal funds various expenses, including funeral expenses, license fees, taxes, administration expenses and payments on the loan for the residence. The total paid by petitioner is the sum of \$53,238.09. Petitioner reimbursed herself the sum of \$17,480.00, leaving a balance owing to petitioner of \$35,758.09. Petitioner states she should be able to reimburse herself the sums advanced in the administration of the estate.

Proposed distribution is to:

Laura Dozier -	\$11.08
Sandra Dozier -	\$11.08

Declaration of Laura Dozier in Support of Second Amended First and Final Account filed on 12/10/15

Ex Parte Petition for Authorization and Instruction as to Expenditure of Funds for Travel

Age: 35		PUBLIC GUARDIAN , Trustee, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner filed the Ex Parte Petition for Authorization and Instruction as to Expenditure of Funds for Travel on 11/19/15.	
	Aff.Sub.Wit.	On 12/2/15, the Court set the matter for hearing and faxed a copy of the Order to County Counsel.	
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.	Petitioner states the beneficiary's mother, Elisa Mora, plans to take Guillermo to visit family in La Penita, Nayarit, Mexico for Christmas. For the last four years, the Court has authorized distribution from the trust for this purpose. Mrs. Mora is planning to leave after Thanksgiving and is requesting \$4,000.00 be distributed from the trust for this trip, which is the same amount as last year. The funds would cover gas for the handicap-equipped van, hotel rooms for part of the time they are gone, food, incontinent supplies, and any other supplies needed to care for Mr. Mora for the trip.	
	Notice of Hrg		
	Aff.Mail		
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	Conf. Screen	Petitioner states there is currently \$1,117.04 in the PG's Trust account and \$137,066.87 in savings. Mr. Mora's monthly income from SSI is \$877.40 and his expenses total approx. \$1,450.00/month. Petitioner assert that the trust estate will not be harmed by providing funds for this trip and the beneficiary would benefit from visiting family that he is unable to see very often.	
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
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	9202		
✓	Order		
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	Citation		
	FTB Notice	Supporting documentation provides a breakdown of the costs including tickets/gas, hotel, food, incontinent supplies, leisure money. Petitioner requests the Court authorize \$4,000.00 from the special needs trust for travel expenses for Mr. Mora and his mother; and for such other orders as the Court deems proper.	Reviewed by: skc Reviewed on: 12/10/15 Updates: Recommendation: File 4 - Mora

Attorney Kevin Urbatsch, of San Francisco (for Petitioner Wells Fargo Bank, Trustee)

Petition for Order Authorizing Disbursement of Trust Funds for Home Modifications

			<p>WELLS FARGO BANK, Trustee, is Petitioner.</p> <p>Petitioner seeks an order under Probate Code § 17200 authorizing the disbursement of Trust funds for home modifications for the benefit of Trust Beneficiary SANDY MOUA, based upon the following:</p> <ul style="list-style-type: none"> The Trust was funded with \$2,114,386.77 in proceeds from a litigation settlement in Case 07CECG01886, and is a discretionary, spendthrift trust for the purpose of supplementing public resources and benefits when such resources and benefits are unavailable or insufficient to provide for SANDY'S special needs; SANDY resides with her parents and siblings <i>[in the home owned by the Trust]</i>; as a result of being hit by a car while she was crossing the street, Sandy suffers from several permanent severe disabilities that substantially impair her ability to provide for her own care, including significant cognitive impairment, spastic quadriparesis, and brain damage; she is not expected to experience significant future improvement in her condition; <i>[Order Settling Third Account and Report of Trustee filed 6/19/2015]</i> found the balance of the trust estate as of the end of the Third Account period was \$2,121,160.68, of which \$158,399.60 consisted of cash; Petitioner requests authorization to expend up to \$10,000.00 on home modifications, as there are sufficient trust funds to pay for the home modifications and to continue to provide for the special needs of SANDY; <p align="center">~Please see additional page~</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note Re Future Hearings:</p> <ul style="list-style-type: none"> A Probate Status Hearing for the Court's reconsideration of any appropriate rent reductions is set on 6/21/2016 at 9:00 a.m. in Department 303. A Probate Status Hearing for the filing of the Fourth Account (covering period 12/1/2014 through 11/30/2016) is set on 1/24/2017 at 9:00 a.m. in Department 303. <p align="center">~Please see additional page~</p>																																																																																		
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Petitioner requests authorization to expend up to \$10,000.00 on home modifications, continued:

- Petitioner seeks to expend up to **\$10,000.00** to add a patio covering and extend the patio of the home in which **SANDY** resides;
- **SANDY** is not able to walk on her own for more than a few steps and requires a walker or wheelchair for mobility and other special equipment;
- In 2010, this Court approved the purchase of the residence in Clovis to provide **SANDY** with a wheelchair accessible home;
- Due to her disabilities, **SANDY** lives in the downstairs bedroom; recently, water collecting on the roof has been causing water damage to the first floor of the home, the floor on which **SANDY** is living;
- The patio modifications are necessary to prevent further water damage and provide **SANDY** with adequate living conditions;
- The home modifications would allow Petitioner to continue to best provide for the needs of **SANDY**;
- Public resources and benefits are unavailable to pay the full cost of the home modifications; therefore, the disbursements for such special needs are proper discretionary distributions pursuant to the terms of the Trust;
- Petitioner has obtained two estimates of the costs for the patio modifications; both estimates include the cost to repair the current water damage and install rain gutters on the patio to move any water collecting on the roof; patio will be installed on the second floor of the home;
 - Bid of **R.F.M.C. Construction (Patio Kings)** for **\$8,070.00** attached as Exhibit A includes: building patio cover to existing space above the balcony; installation of 210 square feet of floor tile to the balcony floor; installation of ceiling fan.
 - Bid of **Scrivner Construction** for **\$12,487.00** attached as Exhibit B includes: repair of ceiling of bedroom and drywall in garage; patch hole upstairs; build wood patio cover over upstairs deck with torch down roof; install wood grain tile on deck floor.

Amendment to Petition for Order Authorizing Disbursement of Trust Funds for Home Modifications filed 11/18/2015 amends the *Petition* to seek attorneys' fees to be paid for the purposes of advocating to recover public benefits for Trust Beneficiary **SANDY MOUA**, pursuant to Trust terms requiring that all fees and costs paid out of the Trust be approved by the Court prior to disbursement; *[the request is based upon the following]*:

- Trustee **WELLS FARGO** retained Attorney **WILLIAM L. WINSLOW** *[of Los Angeles]* to represent **SANDY** regarding a claim for restoration of Supplemental Security Income (SSI) benefit eligibility by the Social Security Administration (SSA) and to defend **SANDY** against an overpayment claim by the SSA;
- Mr. Winslow was formerly a partner of **FARMER & RIDLEY**, a firm no longer active, and is currently of counsel at **GIFFORD, DEARING & ABERNATHY**;
- As described more fully in the *Declaration of William L. Winslow* (attached as Exhibit A), Petitioner requests that approved fees for legal services rendered by **FARMER & RIDLEY** be made out to "**FRPR, LLP and/or WILLIAM L. WINSLOW**" in accordance with an agreement for division of fees entered into by **FARMER & RIDLEY** and **WILLIAM L. WINSLOW**;

~Please see additional page~

Amendment to Petition for Order Authorizing Disbursement of Trust Funds for Home Modifications filed 11/18/2015, continued:

- Petitioner seeks an order of this Court to authorize and direct Trustee to pay **GIFFORD, DEARING & ABERNATHY** attorneys' fees in the amount of **\$10,333.50** and costs in the amount of **\$67.92**(for Federal Express shipments);
- Additionally, Petitioner seeks an order of this Court to authorize and direct Trustee to pay "**FRPR, LLP and/or WILLIAM L. WINSLOW**" the sum of **\$1,203.50** for legal services rendered by **FARMER & RIDLEY**;
- The rate for his services is **\$415.00** per hour; the combined total of all services rendered and costs advanced is **\$11,604.92**;
- All services rendered by **WILLIAM L. WINSLOW** for which fees are being sought in this amendment to the Petition occurred prior to the *[Order Settling Third Account and Report of Trustee filed 6/19/2015]*;
- Petitioner is not seeking separate payment for **JIM HYUCK** in this amendment, as his fees have already been reviewed by this Court in the *[Order Settling Third Account and Report of Trustee filed 6/19/2015]*.

Declaration of William L. Winslow, attached as Exhibit A to the Amendment to Petition for Order Authorizing Disbursement of Trust Funds filed 11/18/2015 states:

- He has a subspecialty practice that includes drafting special needs trusts and government benefits issues; since the 1993 enactment of safe harbors for SNTs in state and federal law, he has represented disabled individuals whose eligibility for SSI was challenged by the SSA over some aspect of the SNT which the disabled person was a beneficiary, approximately 12 times; of these, about 6 disputes arose within the last 2 to 3 years; *(resume attached as Exhibit A)*;
- The rate for his services is **\$415.00** per hour *(copy of contract for legal services attached as Exhibit B)*; a Work-in-Progress is attached as *Exhibit C* showing his time in the matter while at **FARMER & RIDLEY**; a statement showing his time on this matter while at **GIFFORD, DEARING & ABERNATHY** is attached as *Exhibit D*;
- He was retained by **WELLS FARGO BANK**, Trustee, to represent the Trust Beneficiary regarding her claim for restoration of her eligibility for SSI benefits by SSA, and to defend her against an overpayment claim by SSA;
- In 2012, SSA cut off **SANDY MOUA'S** SSI benefits on the ground that she had excess resources;
- Working with a government benefits expert, **JAMES HYUCK**, the Trustee took steps to cure possible grounds for SSA's claims;
- He believes that by law these steps should have caused SSA to reinstate SSI eligibility, but it did not do so;
- He requested a hearing before an Administrative Law Judge, prepared a Statement of Facts and Memorandum of Points and Authorities, and attended a hearing in Fresno; *[Please refer to detailed facts of the SSA claim as stated by Mr. Winslow are contained on Page 2 - 3 of Declaration]*;
- He entered into an agreement regarding fees for legal services with **FARMER & RIDLEY** which is still in force, and pursuant to his agreement he requests the Court order a payment of approved fees for legal services rendered to "**FRPR, LLP and/or WILLIAM L. WINSLOW**;"
- He rendered **2.9** hours of professional services at **\$415.00** per hour totaling **\$1,203.50**, and **GIFFORD, DEARING & ABERNATHY** rendered **24.9** hours of professional services totaling **\$10,333.50**; and the combined total of all services rendered is **\$11,537.00**; in addition he seeks **\$67.92** for Federal Express shipments for which he seeks reimbursement.

~Please see additional page~

Petitioner prays for an Order that:

1. The Trustee of the **2009 SANDY MOUA SPECIAL NEEDS TRUST** is authorized to distribute up to **\$10,000.00** on home modifications to add a patio covering and extend the patio *[on the balcony level]* at the home in which **SANDY MOUA** resides;
2. The Trustee is authorized and directed to pay **GIFFORD, DEARING & ABERNATHY** attorneys' fees in the amount of **\$10,333.50** and costs in the amount of **\$67.92** for services rendered to the Trustee; and
3. The Trustee is authorized and directed to pay "**FRPR, LLP and/or WILLIAM L. WINSLOW**" the sum of **\$1,203.50** for legal services rendered by **FARMER & RIDLEY**.

NEEDS/PROBLEMS/COMMENTS, continued:

1. *Petition* does not address the comparison costs of repairing the roof only, versus the addition of a patio covering, extension of the patio, and addition of a ceiling fan on the balcony of the two-story home, in which the Trust Beneficiary resides exclusively on the first floor; *Petition* does not address how the **\$10,000.00** in modifications are related to meeting the special needs of the Trust Beneficiary.

Notes Re Attorney Fee Request: *Amendment to Petition* filed 11/18/2015 states all services rendered by **WILLIAM L. WINSLOW** for which the **\$10,333.50** in fees are being sought occurred prior to the *Order Settling Third Account and Report of Trustee* filed 6/19/2015, and that Petitioner is not seeking separate payment for **JIM HYUCK** in this amendment, as his fees have already been reviewed by this Court in the 6/19/2015 Order. The *Declaration of William L. Winslow* in support of his fee request contains at Exhibits C and D itemizations that include email and teleconferences with Mr. Hyuck; the following is noted with respect to the request for attorney fees:

- *Exhibit D*, Statement from the Law Offices of **GIFFORD, DEARING & ABERNATHY** includes an itemization dated 1/15/2014 for **\$1,760.00** for travel to Fresno *[from Los Angeles]* for hearing re SSI; and an itemization dated 1/16/2014 for **\$1,760.00** for return travel from Fresno, for a total of **\$3,520.00** for travel costs; the Court typically disallows travel costs, as evidenced by Local Rule 7.17(B)(5) providing that travel costs to and from court are not reimbursable.
- Attorney Kim Herold was paid **\$1,625.00** in fees for services requested in her *Petition for Modification of Special Needs Trust*, per Order filed 7/10/2013, which services appear to be related to the same issues for which William Winslow is requesting fees of **\$1,203.50** at this time, itemized at *Exhibit C* of Mr. Winslow's *Declaration* for the period 3/27/2013 – 10/30/2013.

6 Tobias Brewer, Tyler Brewer, Trevor Brewer & Torilyn Brewer (GUARD/P)

Case No. 11CEPR00896

Guardian Beck, Melanie (pro per – maternal grandmother)
Petitioner Brewer, Tabitha (pro per – mother)

Petition for Visitation

Tobias, 14	TABITHA BREWER, mother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 10/29/15</u> As of 12/11/15, nothing further has been filed and the following notes remain: 1. Need Notice of Hearing. 2. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Visitation</i> <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: a. David Brewer (father) b. Allen (Paternal grandfather) c. Terrie DuMichelle (paternal grandmother) d. Tobias Brewer (minor) e. Tyler Brewer (minor)
Tyler, 13	MELANIE BECK, maternal grandmother, was appointed Guardian of the minors on 12/05/11. – <i>acknowledged being served on 09/24/15</i>	
Trevor, 11		
Torilyn, 7	Father: DAVID BREWER	
Cont. from 092415, 102915	Paternal grandfather: ALLEN Paternal grandmother: TERRIE DUMICHELLE	
Aff.Sub.Wit.		
✓ Verified	Maternal grandfather: STEVE MOORE	
Inventory		
PTC	Petitioner requests unsupervised visits with all 4 of her children.	
Not.Cred.		
Notice of Hrg	x Objection to Visitation filed 10/15/15 by Melanie Beck (guardian).	
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		Reviewed by: JF
		Reviewed on: 12/11/15
		Updates:
		Recommendation:
		File 6 – Brewer

7A Nathaniel Collins & Malichi Collins (GUARD/P) Case No. 12CEPR00561

Petitioner Collins, Angelina Denise (pro per – mother)

Attorney Walters, Jennifer (for Lana Pratt – maternal grandmother/Guardian)

Petition Visitation

Nathaniel, 5		ANGELINA D. COLLINS , mother, is Petitioner. LANA PRATT , maternal grandmother, was appointed Guardian on 11/26/12. – Served by mail on 10/27/15 Father: NATHANIEL COMENGER – Declaration of Due Diligence filed 10/27/15 Paternal grandfather: NOT LISTED – Declaration of Due Diligence filed 10/27/15 Paternal grandmother: NOT LISTED – Declaration of Due Diligence filed 10/27/15 Maternal grandfather: KURT RICARDO – served by mail on 10/27/15 Petitioner states [see file for details].	NEEDS/PROBLEMS/COMMENTS: CONTINUED FROM 11/05/15 Minute Order from 11/05/15 states: Ms. Horton requests a continuance to respond. 1. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing or Consent & Waiver of Notice</i> for: a. Nathaniel Comenger (father) b. Paternal grandparents Note: Declaration of Due Diligence filed 10/27/15 states that Petitioner only has a contact number for a paternal aunt who stated that the father is “on the run” and that she and the paternal grandmother want nothing to do with the situation.
Malichi, 4			
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	FTB Notice		
			Reviewed by: JF Reviewed on: 12/11/15 Updates: Recommendation: File 7A – Collins

7A

7B Nathaniel Collins & Malichi Collins (GUARD/P) Case No. 12CEPR00561

Petitioner Collins, Angelina (pro per – mother/Petitioner)

Petition – Terminate Guardianship

Nathaniel, 5	ANGELINA D. COLLINS , mother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED FROM 11/05/15</u> Minute Order from 11/05/15 states: Ms. Horton requests a continuance to respond. 2. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing <u>or</u> Consent & Waiver of Notice for: c. Nathaniel Comenger (father) d. Paternal grandparents Note: Declaration of Due Diligence filed 10/27/15 states that Petitioner only has a contact number for a paternal aunt who stated that the father is "on the run" and that she and the paternal grandmother want nothing to do with the situation.
Malichi, 4	LANA PRATT , maternal grandmother, was appointed Guardian on 11/26/12. – Served by mail on 10/27/15	
Cont. from 082415, 100515, 110515	Father: NATHANIEL COMENGER – Declaration of Due Diligence filed 10/27/15	
<input type="checkbox"/> Aff.Sub.Wit.	Paternal grandfather: NOT LISTED – Declaration of Due Diligence filed 10/27/15	
<input checked="" type="checkbox"/> Verified	Paternal grandmother: NOT LISTED – Declaration of Due Diligence filed 10/27/15	
<input type="checkbox"/> Inventory		
<input type="checkbox"/> PTC		
<input type="checkbox"/> Not.Cred.	Maternal grandfather: KURT RICARDO – Served by mail on 10/27/15	
<input checked="" type="checkbox"/> Notice of Hrg		
<input checked="" type="checkbox"/> Aff.Mail w/o	Petitioner states [see file for details].	
<input type="checkbox"/> Aff.Pub.	Court Investigator Dina Calvillo filed a report on 10/01/15.	
<input type="checkbox"/> Sp.Ntc.	Kern County Court Investigator Mario Correa filed a report on 10/08/15.	
<input type="checkbox"/> Pers.Serv.	Declaration of Petitioner, Angelina D. Collins, filed 10/26/15.	
<input type="checkbox"/> Conf. Screen		
<input type="checkbox"/> Letters		
<input type="checkbox"/> Duties/Supp		
<input type="checkbox"/> Objections		
<input type="checkbox"/> Video Receipt		
<input checked="" type="checkbox"/> CI Report		
<input type="checkbox"/> 9202		
<input checked="" type="checkbox"/> Order		
<input type="checkbox"/> Aff. Posting		
<input type="checkbox"/> Status Rpt		
<input type="checkbox"/> UCCJEA		
<input type="checkbox"/> Citation		
<input type="checkbox"/> FTB Notice		
		Reviewed by: JF
		Reviewed on: 12/11/15
		Updates:
		Recommendation:
		File 7B – Collins

7B

Attorney Boyajian, Thomas M. (for Conservator Irene V. Santos)

Final Account and Report of Conservator and Petition for Its Settlement, for Approval of Sale of Depreciating Property, for Allowance of Conservator's and Attorney's Compensation, and for Discharge of Conservator and Exoneration of Bond

DOD: 12/8/2014		IRENE V. SANTOS , daughter and Conservator of the Person and Estate, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 7/1/2014 - 8/1/2015	Continued from 11/5/2015. Minute Order states counsel needs to file an amended accounting. If the amended petition is filed at least two court days prior, then no appearance is necessary on 12/17/15.
Cont. from 110515			
<input type="checkbox"/>	Aff.Sub.Wit.	Accounting - \$54,999.39	<ol style="list-style-type: none"> This accounting was not completed on the mandatory-use Judicial Council forms as required by Probate Code § 2620(a). CA Rule of Court 7.101(a) provides if the Judicial Council has adopted a mandatory form, that form must be used. Need amended accounting on the mandatory-use Judicial Council forms. Schedule A, Receipts, does not but should show the \$1,800.00 sale proceeds from the sale of Conservatee's 2004 Chevrolet (valued at \$4,500.00 on the Final Inventory and Appraisal filed 3/7/2013.) Need explanation for the disposition of the sale proceeds and an amended schedule and/or account. Based upon the cash on hand as stated in the account, the request for Conservator commissions and attorney fees exceeds the available funds by \$2.13. Further, the conservatorship estate appears to have \$1,800.00 in funds that are not accounted for in the schedules. Need proposed order pursuant to Local Rule 7.1.1(F).
<input checked="" type="checkbox"/>	Verified	Beginning POH - \$47,101.81	
<input checked="" type="checkbox"/>	Inventory	Ending POH - \$ 2,677.87 (all cash)	
<input type="checkbox"/>	PTC	Conservator - \$1,030.00	
<input type="checkbox"/>	Not.Cred.	(services not itemized; Mileage Report itemization attached as Exhibit B totals \$118.69 for 206.42 miles @ \$0.575 per mile;)	
<input type="checkbox"/>	Notice of Hrg N/A	Attorney - \$1,650.00	
<input type="checkbox"/>	Aff.Mail	(per Declaration attached as Exhibit A1 and A2; less than total of \$3,250.00 for 13.00 hours @ \$250.00 per hour, from 7/11/2014 to 1/23/2015;)	
<input type="checkbox"/>	Aff.Pub.	Bond - \$35,000.00	
<input type="checkbox"/>	Sp.Ntc.	Petitioner prays for an order:	
<input type="checkbox"/>	Pers.Serv.	<ol style="list-style-type: none"> Approving and settling the Final Account and Report; Approving all acts and transactions of the Conservator relating to the conservatorship as shown in the account; Approving and confirming the sale of Conservatee's automobile as a sale of depreciating property; Authorizing and directing Conservator to pay herself \$1,030.00 as compensation for her services rendered during the period of account; and Authorizing directing Conservator to pay the Attorney fees of \$1,650.00 as compensation for services rendered. 	
<input type="checkbox"/>	Conf. Screen		Reviewed by: LEG Reviewed on: 12/10/15 Updates: Recommendation: File 8 – Murillo
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input checked="" type="checkbox"/>	2620		
<input type="checkbox"/>	Order X		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Status Hearing Re: Filing of the First Account and/or Petition for Final Distribution

DOD: 9-21-12		<p>ROSARIO R. FORESTIERE, Spouse, was appointed as Administrator with Limited IAEA without bond on 1-3-13 and Letters issued on 1-7-13.</p> <p>At hearing on 1-3-13, the Court set this status hearing for the filing of the first account or petition for final distribution.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Minute Order 6/18/15:</u> Counsel is waiting for the ruling on the appeal.</p> <p>1. Need first account or petition for final distribution or verified written status report per local rule 7.5.</p>	
Cont. from 032114, 042814, 052814, 062614, 091814, 061815				
Aff.Sub.Wit.				<p>Status Report filed 3-11-14 by Mr. Forestiere's former attorney Robert Wright states that a will has now been discovered and a Petition for Probate of Will is in process. The assets of the estate include the decedent's home, personal vehicle, and personal effects. On 12-31-13, the Court approved the sale of the residence and it is currently in escrow. The estate is not in a condition to be closed until the will has been admitted and escrow has closed.</p> <p>Note: On 6-26-14, the will was admitted to probate and Rosario R. Forestiere was appointed as Executor.</p> <p>The Court continued this status hearing re filing the first account or petition for final distribution to 9-18-14.</p>
Verified				
Inventory				
PTC				
Not.Cred.				
Notice of Hrg				
Aff.Mail				
Aff.Pub.				
Sp.Ntc.				
Pers.Serv.				
Conf. Screen				
Letters				
Duties/Supp				
Objections				
Video Receipt				
CI Report				
9202				
Order				
Aff. Posting				
Status Rpt				
UCCJEA				
Citation				
FTB Notice				
		<p>Reviewed by: skc</p> <p>Reviewed on: 12/10/15</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 10 – Forestiere</p>		

Attorney: Gary G. Bagdasarian (for Conservator Sharon Shrives)

Attorney: J. Stanley Teixeira (Court Appointed for Conservatee)

Petition for Transfer

			SHARON SHRIVES was appointed conservator on 9/25/14 with bond set at \$40,000.00.	NEEDS/PROBLEMS/COMMENTS:
			Court Investigator Jennifer Young filed a Petition for Transfer on 10/26/15 requesting this proceeding be transferred to Tulare County because the conservatee has resided there for over one year, and it is presumed pursuant to Probate Code §2215 that transfer of the conservatorship case to the county of residence is in the best interests of the conservatee.	<p>Note: A status hearing for the filing of the first account was continued to 1/28/16. It appears that this petition should not be approved until after the approval of the first account. Therefore the court may wish to continue this matter to 1/28/16 to be heard with the status hearing for the filing of the first account.</p>
Cont. from			<p>Court Investigator further recommends that the fees and costs related to this transfer be waived.</p>	
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	W/		
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			Reviewed by: KT	
			Reviewed on: 12/11/15	
			Updates:	
			Recommendation:	
			File 12 - Mardis	

13 Madison & Marilyn Makaroff (GUARD/P) Case No. 14CEPR00618

Petitioner/Guardian: Gloria Makaroff (pro per)

Petitioner: Matthew Makaroff (pro per)

Petition for Appointment of Guardian of the Person

		GLORIA MAKAROFF , maternal grandmother, and MATTHEW MAKAROFF , maternal uncle, are petitioners. GLORIA MAKAROFF was appointed guardian of the person on 9/18/14. Please see petition for details. Court Investigator Report filed on 12/10/15.	NEEDS/PROBLEMS/COMMENTS: 1. Need Notice of Hearing. 2. Need proof of personal service of the Notice of Hearing along with a copy of the Petition or Consent and Waiver of Notice or Declaration of Due Diligence on: a. Victor Hugo Torrez (father) b. Dasha Makaroff (mother)	
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input type="checkbox"/>	Notice of Hrg			<input checked="" type="checkbox"/>
<input type="checkbox"/>	Aff.Mail			
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input checked="" type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input checked="" type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
			Reviewed by: KT	
			Reviewed on: 12/11/15	
			Updates:	
			Recommendation:	
			File 13 -Makaroff	

Attorney
Attorney

Krbechek, Randolph (for Jerry Prudek – Beneficiary – Petitioner)

Teixeira, J. Stanley (for Glenn J. Hepner, George Hepner, Jr., and Jimmy Hepner)

Verified Petition for Accounting and for Order Instructing Co-Trustees and Compelling Final Distribution From Trust [Probate Code §§ 16062, 17200(b)(4), (5), and (6)]

Anna Hepner DOD: 4/24/08		JERRY PRUDEK , Beneficiary, is Petitioner.	NEEDS/PROBLEMS/COMMENTS: Minute Order 9/17/15: Mr. Krbechek represents that mediation is going well; requests an additional 60-90 days, stating that he will inform Mr. Teixeira of the date. Note: See Page B re status of mediation and agreement.	
Cont. from 060815, 072215, 091715		Petitioner states GLENN J. HEPNER, JIMMY A. HEPNER, GEORGE HEPNER, JR., and DOLLIE SIMPSON have served as successor trustees since the death of their mother. The trust holds various acreage in Fresno County. Other assets are unknown.		
<input type="checkbox"/>	Aff.Sub.Wit.	Petitioner alleges that the co-trustees have reviewed a proposal for distribution as set forth on Exhibit B. No action has been taken to effect such distribution due to lack of agreement among the co-trustees. The beneficiaries are Glenn J. Hepner, Jimmy A. Hepner, and George Hepner, Jr., each as to a 1/4 interest, and Dolly Simpson and Jerry Prudek each as to a 1/8 interest. Jerry Prudek is successor to Evelyn Prudek.	1. Probate Code §17200(b)(7) provides that proceeding to compel account may be commenced if the trustee has failed to submit a requested account within 60 days after written request of the beneficiary and no account has been made within six months preceding the request. Petitioner states his proposed distribution was reviewed, no action taken, but does not state whether written request for account was made. If not, this petition may be premature.	
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			W
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen	Petitioner requests distribution in accordance with the First Amendments, which provides that "if my children are unable to agree on how the property is to managed or divided, then the property shall be sold and the proceeds divided in the proportions indicated above."	2. Need order.	
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input type="checkbox"/>	Order			X
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			Petitioner requests a full and complete accounting in accordance with Probate Code §16063 pursuant to Probate Code §16062, 16063, and 17200. Further administration of trust assets is not necessary, and the remaining assets should be liquidated and distributed.
<input type="checkbox"/>	UCCJEA	Reviewed on: 12/10/15		
<input type="checkbox"/>	Citation	Updates:		
<input type="checkbox"/>	FTB Notice	Recommendation:		
		Petitioner prays for relief against the co-trustees as follows:	File 14A - Hepner	
		1. An order compelling the successor trustees to account for any trust assets collected or received by them;		
		2. An order settling the accounts and passing upon the acts of each of the co-trustees;		
		3. An order determining to whom property shall pass or be delivered upon termination of the trust;		
		4. An order for termination of the trust;		
		5. For such other and further relief as the Court may deem just, equitable, and proper.		

		JERRY PRUDEK , Beneficiary, filed Petition for Accounting and for Order Instructing the Co-Trustees and Compelling Final Distribution from Trust on 4/22/15.	NEEDS/PROBLEMS/COMMENTS: <u>Minute Order 9/17/15</u> : Mr. Krbechek represents that mediation is going well; requests an additional 60-90 days, stating that he will inform Mr. Teixeira of the date.
Cont. from 091715		On 7/22/15, Mr. Krbechek informed the court that the parties are participating in mediation. The Court set this status hearing re mediation and agreement.	1. Need written status report re mediation and agreement per Local Rule 7.5.
Aff.Sub.Wit.		Status Conference Statement and Request for Continuance filed 9/16/15 by Attorney Krbechek states the parties continue to engage in a meaningful exchange of information. One mediation session was conducted with Lee Jacobson. Since the mediation, additional information has been provided, which must be reviewed. They will need to schedule a further mediation session with Mr. Jacobson upon review of all the materials. A continuance of 60-90 days is therefore requested.	
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202		Reviewed by: skc Reviewed on: 12/10/15 Updates: Recommendation: File 14B – Hepner	
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

Attorney: Gary L. Winter (for Petitioner Susan F. Patten)

Respondent: Michael Torosian (pro per)

Respondent: David Torosian (pro per)

**Notice of Motion and Motion to Strike Respondent David Torosian's
Response, Verification, and Proof of Service for Lack of Conformity with
Court Order; Memorandum of Points and Authorities.**

		SUSAN F. PATTEN , beneficiary, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner states the AMOS DER TOROSIAN TRUST was executed by Amos Der Torosian on 9/8/1999.	1. Need Notice of Hearing.
Cont. from		Amos Der Torosian died on 4/8/09.	2. Need proof of service of the Notice of Hearing on all interested parties.
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		Note: A proof of service has been filed showing service of the documents however Probate Code §1211 prescribes the form of notice to be given (found in Judicial Counsel Notice of Hearing form DE-120). California Rules of Court, Rule 7.101 requires the mandatory use of Judicial Council forms adopted for mandatory use. Therefore Judicial Counsel form DE-120 must be used for the Notice of Hearing and proof of service.
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg	X	
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		Reviewed by: KT
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		Reviewed on: 12/14/15
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		Updates:
<input type="checkbox"/>	FTB Notice		
<p>Petitioner filed her petition to compel the trustee accounting, to remove trustee and appoint successor trustee, for order confirming trust assets, and for payment of attorney fees on 5/21/15. Both respondents David Torosian and Michael Torosian filed their responses on 7/1/15, the same day as the initial hearing. The hearing was continued to 8/5/15, at which time the court noted that respondents failed to file proofs of service and verifications to their papers. The court directed both respondents to properly re-file and serve their responses with both proofs of service and verifications by 9/2/15. Should respondents fail in this regard, the court indicated that both respondent's papers would be stricken from the record. The court also gave respondents until 9/16/15 to file any reply.</p> <p>Respondents attempted to re-file and serve their responses on 8/25/15; however, again both responses did not include verifications, and only Michael Torosian included a proof of service. Additionally, the papers filed by both respondents were severely deficient and not in conformity of California Court Rules, including Rule 2.8 – 2.11.</p> <p align="center">Please see additional page.</p>			Recommendation: File 15A - Torosian

Petitioner filed a Reply on 9/15/15, which prompted respondent David Torosian to file a handwritten proof of service, verification, and declaration regarding such, on 9/21/15, nineteen days after the due date imposed by the court.

David Torosian's response to the petition, as well as his supplementary declaration in which he tried to submit is missing proof of service and verification and should be stricken from the record pursuant to California Code of Civil Procedure §436. Not only is the response not in conformity with several formatting requirements of the California Rules of Court, it was filed without both a verification or proof of service, which is in direct contradiction with the court's oral instructions to respondent on 8/5/15.

California Code of Civil Procedure §436 allows the court to strike all or part of a pleading not drawn or filed in conformity with the laws of California, a court rule, or an order of the court.

Therefore Petitioner concludes that respondent David Torosian's objection to petitioner's petition, including his late-filed verification and proof of service, should be stricken from the record in this matter. The paper is deficient technically, and moreover, respondent failed to follow the court's express order regarding verification and proof of service. These shortcomings should not go unnoticed by the court, which gave respondent more than adequate opportunity to correct the deficiencies in the filing.

Declaration of David Torosian filed on 11/16/15. The declaration includes several pages of responses to the underlying petition to remove him as trustee (examiner has not included those statements in this summary).

Mr. Torosian states, as to the late filing of the declaration regarding verification the proof of service (sic) is assistant Steven Manfredo attempted to file a first amended response with the court and was directed by the court clerk that was not necessary that only a declaration regarding the verification needed to be filed with the proof of service.

Despite the technical deficiencies in respondent's objection, there was a verification filed with the court which the court clerk directed to file as a declaration regarding the verification to the response. The court should not strike from the record the objection and response due to the inadvertence of the court clerk directing him to do otherwise.

It is the request of the trustee that the court, in its discretion, excuse the trustee in whole or in part from his lack of conforming to the Rules of Court because the trustee has acted reasonably and in good faith under the circumstances as known to the trustee.

Attorney: Gary L. Winter (for Petitioner Susan F. Patten)

Respondent: Michael Torosian (pro per)

Respondent: David Torosian (pro per)

**Notice of Motion and Motion to Strike Respondent Michael Torosian's
Response, Verification, and Proof of Service for Lack of Conformity with
Court Order; Memorandum of Points and Authorities.**

		SUSAN F. PATTEN , beneficiary, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Petitioner states the AMOS DER TOROSIAN TRUST was executed by Amos Der Torosian on 9/8/1999.	3. Need Notice of Hearing.
Cont. from		Amos Der Torosian died on 4/8/09.	4. Need proof of service of the Notice of Hearing on all interested parties.
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		<p>Note: A proof of service has been filed showing service of the documents however Probate Code §1211 prescribes the form of notice to be given (found in Judicial Counsel Notice of Hearing form DE-120). California Rules of Court, Rule 7.101 requires the mandatory use of Judicial Council forms adopted for mandatory use. Therefore Judicial Counsel form DE-120 must be used for the Notice of Hearing and proof of service.</p>
<input type="checkbox"/>	Inventory	The current acting Trustee is DAVID DER TOROSIAN .	
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg	X	
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
		<p>Petitioner filed her petition to compel the trustee accounting, to remove trustee and appoint successor trustee, for order confirming trust assets, and for payment of attorney fees on 5/21/15. Both respondents David Torosian and Michael Torosian filed their responses on 7/1/15, the same day as the initial hearing. The hearing was continued to 8/5/15, at which time the court noted that respondents failed to file proofs of service and verifications to their papers. The court directed both respondents to properly re-file and serve their responses with both proofs of service and verifications by 9/2/15. Should respondents fail in this regard, the court indicated that both respondent's papers would be stricken from the record. The court also gave respondents until 9/16/15 to file any reply.</p> <p>Respondents attempted to re-file and serve their responses on 8/25/15; however, again both responses did not include verifications, and only Michael Torosian included a proof of service. Additionally, the papers filed by both respondents were severely deficient and not in conformity of California Court Rules, including Rule 2.8 – 2.11.</p> <p align="center">Please see additional page.</p>	
			Reviewed by: KT
			Reviewed on: 12/14/15
			Updates:
			Recommendation:
			File 15B - Torosian

Petitioner filed a Reply on 9/15/15, which prompted respondent David Torosian to file a handwritten proof of service, verification, and declaration regarding such, on 9/21/15, nineteen days after the due date imposed by the court.

Michael Torosian's response to the petition should be stricken from the record pursuant to California Code of Civil Procedure §436. Not only is the response not in conformity with several formatting requirements of the California Rules of Court, it was filed without both a verification or proof of service, which is in direct contradiction with the court's oral instructions to respondent on 8/5/15.

California Code of Civil Procedure §436 allows the court to strike all or part of a pleading not drawn or filed in conformity with the laws of California, a court rule, or an order of the court.

Therefore Petitioner concludes that respondent Michael Torosian's objection to petitioner's petition should be stricken from the record in this matter. The paper is deficient technically, and moreover, respondent failed to follow the court's express order regarding verification and proof of service. These shortcomings should not go unnoticed by the court, which gave respondent more than adequate opportunity to correct the deficiencies in the filing.

Response of Michael Torosian filed on 11/12/15 states he prays the court extends him some leniency in his answered due to the fact that he is unable to hire a lawyer and that his education is less than high school reading.

Petitioner makes mention that he did not include a verification as required by Probate Code §1021, even though he was the one who wrote the response and signed it.

Petitioner points out his shortcomings even though technically deficient, he believes that more importantly, that he was trying to answer the motion the best that he could with limited understanding of the Rules of Court. Mr. Torosian does not believe that his motion should be stricken because of lines and numbers. He states he has tried to do it right, but believes the court is still about the truth.

17 Jacquelyn Mae Everitt (CONS/PE)**Case No. 15CEPR00928**

Petitioner: Jerri Mae Toews (pro per)

Objector: Laura Abell (pro per)

Objector: Doreese Dee Loyd (pro per)

Petition for Appointment of Probate Conservator

		There is no temporary. Temporary was denied.	NEEDS/PROBLEMS/COMMENTS:	
Cont. from 110515		JERRI MAE TOEWS , daughter, is petitioner and requests the PUBLIC GUARDIAN be appointed as conservator. Court Investigator Report filed on 10/20/15 Please see additional page	Court Investigator Advised Rights on 10/6/15. 1. Petition is incomplete at #1. #1a. requests the Public Guardian be appointed as conservator of the person but #1b is blank as to conservator of the estate. It appears that petitioner is requesting appointment of the Public Guardian as conservator of the person and estate. 2. Order is incomplete (completely blank) Need new order. 3. Need Letters.	
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			N/A
<input type="checkbox"/>	Letters			X
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			N/A
<input checked="" type="checkbox"/>	CI Report			
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<input checked="" type="checkbox"/>	Order			
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<input type="checkbox"/>	UCCJEA			
<input checked="" type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
			Reviewed by: KT	
			Reviewed on: 12/11/15	
			Updates:	
			Recommendation:	
			File 17A – Everitt	

Note: If the petition is granted, status hearings will be set as follows:

- **Wednesday, May 25, 2016** at 9:00 a.m. in Department 303, for the filing of the inventory and appraisal.
- **Wednesday, March 15, 2017** at 9:00 a.m. in Department 303, for the filing of the first account or petition for final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.

Petition for Order: (1) Domesticating Petitioner's Minnesota Adult Guardianship Order; (2) Removing Teng Yang as Trustee; (3) Appointing Guardian Nicole Ballard as Successor Trustee; and (4) Transferring Situs of Trust to Minnesota

		<p>EX PARTE ORDER HOLDING FUNDS IN ABEYANCE PENDING HEARING was granted 9/25/15.</p> <p>NICOLE BALLARD, Guardian of the Person as appointed in Hennepin County, MN, is Petitioner.</p> <p>Petitioner states the PAO VUE XIONG SPECIAL NEEDS TRUST was established 2/17/00 in Fresno Superior Court Case 0627917-8 (Pao Vue Xiong, et al, v. National Railroad Passenger Corporation, et al.) following a train accident in Fresno, CA, which left Pao permanently disabled. Pao's mother, TENG YANG, was appointed trustee and continues to hold this title.</p> <p>Pao and Teng moved to Minnesota in approx. 2012; however, situs of the trust has not been transferred to Minnesota.</p> <p>Petitioner and Teng were were appointed as Co-Guardians of Pao on 4/12/12.</p> <p>Petitioner states Teng has not been involved in Pao's care on a consistent basis and is difficult to contact. Teng has not given any of the trust money to Pao since August 2014. On 9/10/15, Teng was removed as co-guardian and Petitioner was appointed sole guardian of the person in Hennepin County, MN, Case No. 27-GC-PR-12-53.</p> <p>Pao resides in Mendota Heights, MN. Petitioner resides in St. Paul, MN. Teng's last known residence was in Minneapolis, MN; however, it is unknown if she actually resides there.</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>CONTINUED TO 2/3/16</u> Per attorney request</p> <p>Note: Order on Ex Parte Application for Order Holding Funds in Abeyance Pending Hearing on the Petition was entered 9/25/15 and requires that "Wilton (formerly CAN Structured Settlements), Custodian of Settlement Funds" is ordered to hold any funds received for Pao's benefit pending this hearing.</p> <p>Note: Petitioner filed a Supplement to the petition on 12/9/15.</p> <p style="text-align: center;"><u>SEE ADDITIONAL PAGES</u></p>	
Cont. from 110315				
<input type="checkbox"/>	Aff.Sub.Wit.			
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<input type="checkbox"/>	Order	x		
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<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			

Page 2

Petitioner states as trustee, Teng agreed to hold the following property for the benefit of Pao:

- a) \$25,506.89, which was used to set up the trust;
- b) \$650/month in aid, which was paid to the trust until Pao turned 18;
- c) \$1,643.06/month in aid, which would continue for Pao's life with 20 years guaranteed, commencing 12/20/11 and increasing at 2% compounded interest annually.

Petitioner requests an order domesticating Petitioner's Minnesota Adult Guardianship Order pursuant to Probate Code §2013. (*Examiner's Note: This section is effective 1/1/16. See issues.*)

Petitioner requests Teng be removed as trustee pursuant to Probate Code §15642. Petitioner states Teng has committed a breach of trust by failing to make distributions or act as trustee since August 2014. Despite Petitioner's attempts, she has been unable to locate or communicate with Teng in over a year. The trust makes it clear that there exist basic living needs that public benefit programs for the disabled may not provide. Thus, it is *vitally important* that Pao continue to receive such additional services to meet these needs in order to maintain an adequate level of human dignity and humane care. Because Teng's failure to provide distributions leads to an inadequate level of human dignity and care for Pao, the Court has good cause to remove her as trustee.

Petitioner requests appointment as successor trustee. Petitioner states the named successor trustee, Tong Houa Xiong, Father of Pao, is incarcerated and unable to act as successor trustee. Petitioner is a professional fiduciary and Pao's guardian and is the best person to serve in this capacity and consents to serve as trustee.

Petitioner requests to transfer the situs of the trust to Hennepin County, Minnesota pursuant to Probate Code §2802(c) (transfer of personal property out of state) and Probate Code §17401 and §17404 (transfer of trust property or place of administration). Petitioner states Pao resides in Mendota Heights, Minnesota. Because Pao is permanently disabled and the purpose of the trust is to provide Pao with necessary supplemental funding to ensure his proper care, it would be in the best interest of the trust to be located in the jurisdiction in which he resides. Transferring the place of administration would not violate any terms of the trust.

Petitioner prays as follows:

1. For an order domesticating Petitioner's Minnesota guardianship order to California;
2. For an order removing Teng Yang as trustee of the trust;
3. For an order appointing Nicole Ballard as successor trustee of the trust;
4. For an order transferring the trust property and place of administration to Hennepin County, State of Minnesota; and
5. For such other and further relief as the Court deems proper.

SEE ADDITIONAL PAGES

Page 3 – NEEDS/PROBLEMS/COMMENTS: The following issues remain noted for reference, with Petitioner's responses following in italics.

1. It does not appear Petitioner has standing as guardian of the person only to bring this petition on behalf of beneficiary Pao Vue Xiong without appointment as Guardian Ad Litem in this matter pursuant to Probate Code §1003. Need Petition and Order Appointing Petitioner as Guardian Ad Litem for Pao Vue Xiong. See Judicial Council Forms GC-100 and GC-101.

Supplement filed 12/9/15 states Petitioner has standing as an interested party and fiduciary and believes appointment as GAL would unnecessarily deplete the already limited resources of the trust, further delay proceedings, and is unlikely to lead to any other results because the mother is unreachable. Petitioner has attached as Exhibit A an ex parte GAL application if the Court feels it is necessary.

Examiner's Note: An attachment to a declaration does not constitute a filed petition. The Court may require that the GAL petition be properly filed.

2. Petitioner requests Registration of Order of Conservatorship under Probate Code §2013; however, Probate Code §§ 2011 et seq., do not go into effect until 1/1/16. Note: Petitioner is Guardian of the Person only in Minnesota. §2013 is for registration of conservatorship of the person and estate. §2011, when effective, is the section that will apply.

Per code commentary, the purpose of registration is to facilitate enforcement of conservatorship orders of other states or to facilitate real estate or care transactions in California. This does not appear to be the case here, so it is unclear what the purpose of registration would be, unless it is simply for standing for the filing this petition. If so, appointment as GAL is necessary as noted above. Regardless, these registration sections are not currently in effect.

If the Court determines that registration under §2011 is appropriate or will be appropriate upon its effective date, the Registration of Order of Conservatorship should be filed as a separate case pursuant to Local Rules 7.1.2 and 7.19, and will be subject to a separate filing fee, separate notice, and filing of documents as follows:

- Judicial Council Cover Sheet (beginning 1/1/16);
- Certified copies of Order Appointing Guardian and Letters per Probate Code §2011;
- Duties of Conservator (GC-348) per Probate Code §§ 2015, 1834, 1835;
- Service of Notice of Intent to Register Conservatorship on the Court supervising the conservatorship (County of Hennepin, State of Minnesota District Court, Fourth Judicial District, Probate-Mental Health Division), every person who would be entitled to notice of a petition for the appointment of a conservator in Minnesota and in California (see Probate Code §1821 et seq.).

Supplement filed 12/9/15 states Petitioner requests the Court domesticate her guardianship order pursuant to §2011, which can apply to proceedings begun before January 2016 per §2024. Although Petitioner believes she has standing under Probate Code §48(c), Petitioner seeks registration in an abundance of caution to solidify the issue of standing in California.

fSEE ADDITIONAL PAGES

Page 4 – NEEDS/PROBLEMS/COMMENTS (Cont'd):

3. It appears this special needs trust was established in 2000 within the minor's compromise in Fresno Superior Court Case No. 0627917-8, but the trust itself was never properly filed in the Probate Court for review and continuing Court supervision, as required for special needs trusts. The trust does not require bond or any accounting by the trustee and is missing substantially all the language and provisions required for special needs trusts in California.

At this time, the trust has now been brought under the jurisdiction and supervision of this Probate Court and the Court will require compliance with Local Rule 7.19, which includes bond and probate accounting. No payment of fees to attorneys or trustee may be made without prior Court approval.

4. The Court may require clarification of how payments were made and distributed and used prior to August 2014 or accounting by the trustee or custodian pursuant to Cal. Rule of Court 7.903(c) and Probate Code §§ 1060 et seq., and 2620, et seq.

Re #3 and #4 above: Supplement filed 12/9/15 states Petitioner has no objections of the Court's inquiry as to how payments have been made prior to August 2014. Counsel for Petitioner has been working with counsel for the custodian of settlement, Wilton RE Holdings Ltd., to determine the facts surrounding prior distributions and payments. However, Wilton's records only show that checks prior to August 2014 were cashed, not how the funds were expended. Because the former trustee is missing, no information is available to Petitioner. Wilton advises it holds funds for Pao's benefit (and therefore payable to the SNT) in the amount of \$27,761.32 comprised of monthly payments from August 2014 – November 2015.

5. Petitioner requests transfer of the trust situs to Minnesota with reference to Probate Code §2802(c) and 17401 and 17404. Section 2800 et seq., appears to apply to personal property of a conservatee, not trust assets, and it is unclear how §17404 applies to special needs trusts. The Court may require further authority for transfer of the trust situs to Minnesota. Note: If this section is applicable, need all information contained in Probate Code §2803 and notice to all relatives within the second degree.

Supplement filed 12/9/15 refers to Probate Code §17404, which applies to all trusts under Division 9 of the Probate Code; therefore there is no reason why this shouldn't apply to a special needs trust. With respect to the notice under §2803, Pao has no relatives to the second degree who are entitled to notice.

SEE ADDITIONAL PAGES

Page 5 – NEEDS/PROBLEMS/COMMENTS (Cont'd):

6. If Petitioner is appointed as successor trustee, the Court will require bond pursuant to Probate Code §§ 15602, 2620 et seq., and Cal. Rule of Court 7.903(c). Based on the allegation that the trust consists of monthly income of at least \$1,643.06, increasing by 2% annually, beginning 2011, examiner calculates the current monthly income at approx. \$1,778.50, which would require bond including cost of recovery of \$23,476.20. (This assumes there income only, no principal.)

Supplement filed 12/9/15 states if bond is required, Petitioner shall post bond accordingly; however, because the trust situs is likely to be transferred to Minnesota, Petitioner requests that no bond be required.

7. Petitioner states she is a professional fiduciary. The Court may require license information. For an example of the information that may be required, see Judicial Council Form GC-210(A-PF) Professional Fiduciary Attachment to Petition for Appointment of Guardian or Conservator.

Supplement filed 12/9/15 states Minnesota does not require that its professional fiduciaries be licensed, but does required a background study. Attached is Ms. Ballard's background study and resume.

8. Need proposed order pursuant to Local Rules 7.1.1.F and 7.6.

Supplement filed 12/9/15 attaches a proposed order.

Examiner's Note: The Court requires that a proposed order, along with copies to conform, be lodged prior to the hearing for signature and filing if granted. Attaching to the supplement is not sufficient.

		See petition for details.	NEEDS/PROBLEMS/COMMENTS: <u>Court Investigator advised rights on 10/23/15</u> <u>Voting rights affected – need minute order.</u> <u>Note:</u> If granted, the order will be effective on Jessica's 18 th birthday. <u>Minute Order 11/5/15:</u> Examiner notes provided in open court. As of 12/10/15, the following issues remain: 1. Need Citation and proof of personal service of Citation with a copy of the petition at least 15 days prior to the hearing on Proposed Conservatee Jessica Estrada per Probate Code §1824. 2. Need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing per Probate Code §1822 <u>or</u> declaration of due diligence on: - John Estrada (Father) 3. CVRC was served by mail on 11/25/15. Probate Code §1820(e) requires 30 days' notice. Further continuance may be required. 4. The petition is blank at #4b re whether the proposed Conservatee is receiving or entitled to receive benefits from the US Dept. of Veterans Affairs. If so, notice is required per Probate Code §1822(b). 5. Need Letters. Reviewed by: skc Reviewed on: 12/10/15 Updates: Recommendation: File 19 – Estrada	
Cont. from 110515				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			X
✓	Conf. Screen			
	Letters			X
✓	Duties/Supp			
	Objections			
✓	Video Receipt			
✓	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Attorney Brungess, Julia A. (for Petitioners Darleen and Mark Veter – Maternal Great-Aunt and Uncle)

Attorney Hopper, Cindy J. (for Competing Petitioner Tammy Potter – Maternal Grandmother)

Petition for Appointment of Guardian of the Person

See petition for details.			NEEDS/PROBLEMS/COMMENTS: Note: This petition is for Ryan only. Background: Maternal Grandmother Tammy Potter petitioned for guardianship of all three minors, which was set for 12/8/15. Darleen and Mark Veter petitioned for guardianship of Ryan only, who is currently in their physical custody in the State of Washington. Their general hearing was set for 12/17/15 (this hearing). On 10/13/15, the Court granted temporary guardianship of Emily and Joel to Ms. Potter and temporary guardianship of Ryan to the Veters, both to expire on 12/8/15. On 12/8/15, Ms. Potter's petition was granted re Emily and Joel, and was set for trial re Ryan on 3/15/16. The Court extended the Veters' temporary guardianship of Ryan until the trial date of 3/15/16; however, the Veters' general petition remained set for hearing on 12/17/15 due to procedural requirements. 1. The father, William Roesing, was served by mail. The Court may require personal service pursuant to Probate Code §1511.
			Reviewed by: skc
			Reviewed on: 12/14/15
			Updates:
			Recommendation:
			File 20 - Roesing

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<input checked="" type="checkbox"/>	Aff.Mail	W
<input type="checkbox"/>	Aff.Pub.	
<input type="checkbox"/>	Sp.Ntc.	
<input type="checkbox"/>	Pers.Serv.	X
<input checked="" type="checkbox"/>	Conf. Screen	
<input checked="" type="checkbox"/>	Letters	
<input checked="" type="checkbox"/>	Duties/Supp	
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<input type="checkbox"/>	Citation	
<input type="checkbox"/>	FTB Notice	

Petitioner Bisko, Kathleen M. (pro per – maternal grandmother)
 Petitioner Bisko, Monte S. (pro per – maternal grandfather)

Petition for Appointment of Guardian of the Person

Age: 8 mos.		TEMPORARY EXPIRES 12/17/15		NEEDS/PROBLEMS/COMMENTS:	
		KATHLEEN BISCO and MONTE BISCO , maternal grandmother and step- grandfather, are Petitioners.		1. Need Notice of Hearing. 2. Need proof of service at least 15 days before the hearing of Notice of Hearing with a copy of the Petition for Appointment of Guardian of the Person <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: a. Father – <i>personal service needed unless diligence is found</i> b. Paternal grandparents – <i>service by mail ok</i> c. Jimmy Cervelli (maternal grandfather) – <i>service by mail ok unless diligence is found</i>	
Cont. from		Father: UNKNOWN – Declaration of Due Diligence filed 10/22/15 states father is unknown			
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
	Notice of Hrg	x	Paternal grandparents: UNKNOWN		
	Aff.Mail	x	Maternal grandfather: JIMMY CERVELLI – Declaration of Due Diligence filed 12/07/15 states that Petitioner has not seen him for 23 years and his current whereabouts is unknown		
	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.	x			
✓	Conf. Screen		Siblings: SAMUEL CARPENTER (3), EMILY BISCO (1)		
✓	Letters				
✓	Duties/Supp		Petitioners state [see file for details].		
	Objections		Court Investigator Dina Calvillo filed a report on 12/10/15.		
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
				Reviewed by: JF	
				Reviewed on: 12/11/15	
				Updates:	
				Recommendation:	
				File 21 - Bisko	

Petition for Appointment of Guardian of the Person

John, 11	<u>NO TEMPORARY REQUESTED</u>		NEEDS/PROBLEMS/COMMENTS:
Aleena, 3	RUTHINA ESTRADA , maternal grandmother, is Petitioner. Father (Aleena): ERIC RAMOS – <i>Currently incarcerated</i> Father (John): UNKNOWN Mother: LINDA SALAS – <i>Consent & Waiver of Notice filed 10/16/15</i> Paternal grandparents (Aleena): DECEASED Paternal grandparents (John): UNKNOWN Maternal grandfather: PATRICK ROUVANZOIN Petitioner states [see petition for details]. Court Investigator Dina Calvillo filed a report on 12/09/15.		
Cont. from			1. Need <i>Notice of Hearing</i> . 2. Need proof of service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> <i>Consent & Waiver of Notice</i> <u>or</u> <i>Declaration of Due Diligence</i> for: a. Eric Ramos (Aleena's father) – <i>personal service needed</i> b. John's father – <i>personal service needed</i> c. John's paternal grandparents – <i>service by mail ok</i> d. Patrick Rouvanzoin (maternal grandfather) – <i>service by mail ok</i> 3. Need Confidential Guardian Screening Form.
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	x		
Aff.Mail	x		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.	x		
Conf. Screen	x		
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			
			Reviewed by: JF
			Reviewed on: 12/14/15
			Updates:
			Recommendation:
			File 24 – Ramos/Salas